

Recognizing Competency Issues

Representing the
absent client

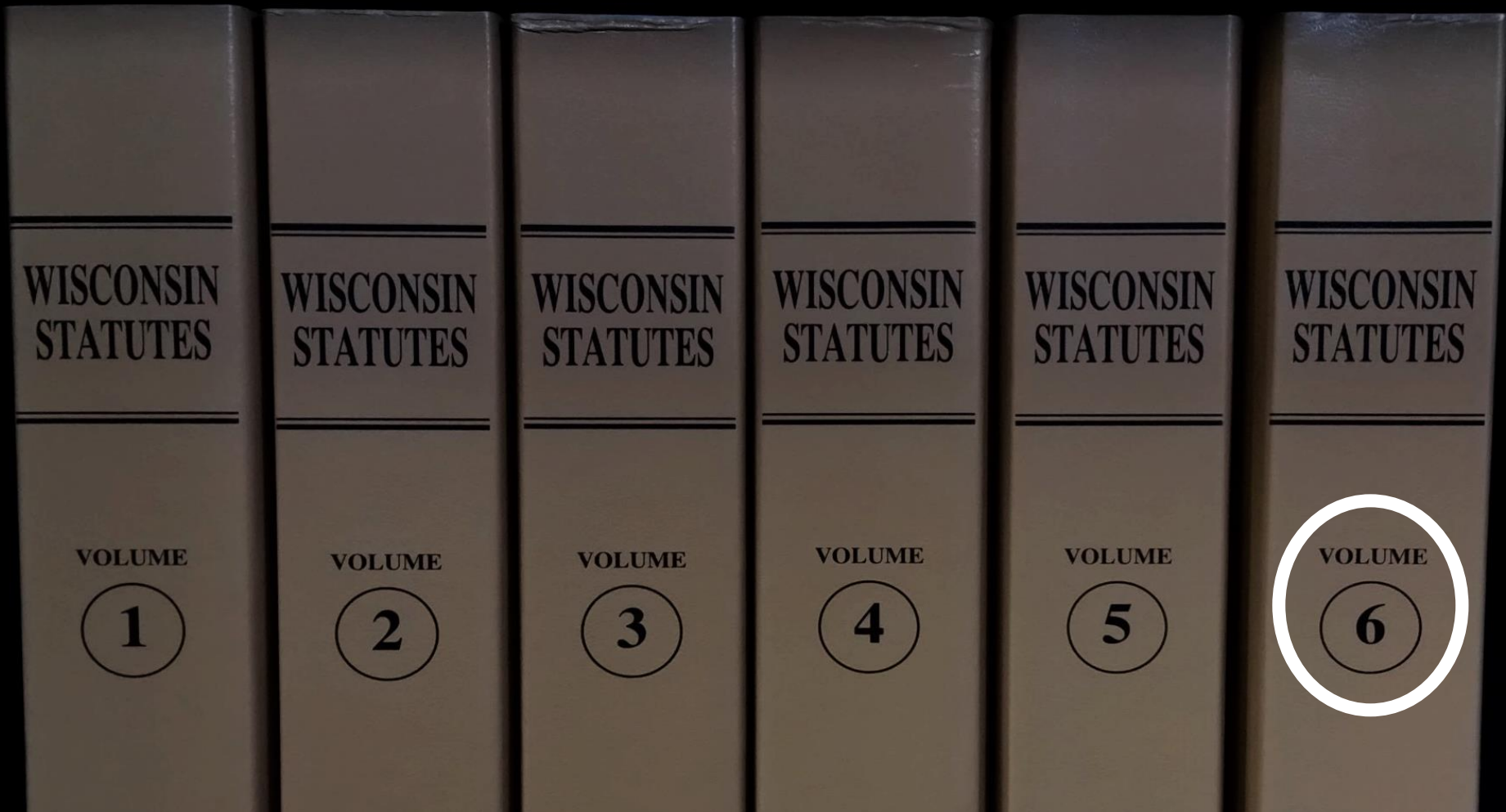
Atty. Eric Heywood



Learning Objectives

- Competency standard
- Signs client is incompetent
- Follow-up plans

Start with the Statutes!



§ 971.13

Dusky Standard

Understand

-AND-

Assist

Understand the Proceedings







Court Roles

- Defense
- Prosecutor
- Judge
- Jury (bonus)

STATE OF WISCONSIN	CIRCUIT COURT	LIBERTY COUNTY
STATE OF WISCONSIN, Plaintiff, vs. RAMONA S. DENG 1963 Gideon Way Freedom, WI 55005 DOB 01/01/1990 Sex/Race: F/B Height: 5 ft 4 in Weight: 138 lbs Defendant.	DA Case No.: 2019LB001 Assigned DA: Rhonda Pearlman Agency Case No.: F-WI-2019-01 Case No. 19-CF-01 CRIMINAL COMPLAINT	For SPD Use

CRIMINAL CHARGE

Count 1: POSSESSION OF NARCOTIC DRUGS

The above-named defendant on or about Friday, January 4, 2019, in the Village of Freedom, Liberty County, Wisconsin, did knowingly possess Heroin, a controlled substance included in Schedule I or Schedule II which is a narcotic drug, contrary to sec. 961.41(3g)(am), 939.50(3)(i), a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

And, invoking the provisions of sec. 961.50(1) Wis. Stats., the Court may suspend the defendant's operating privileges for not less than six (6) months nor more than five (5) years. If the defendant's driving privileges are already suspended, any suspension imposed must be served consecutively.

Count 2: POSSESSION OF DRUG PARAPHERNALIA



Offense

- Charge(s)
- Penalty
- Elements (bonus)

STATE OF WISCONSIN	CIRCUIT COURT	LIBERTY COUNTY
STATE OF WISCONSIN, Plaintiff,	vs. RAMONA S. DENG 1963 Gideon Way Freedom, WI 55005 DOB 01/01/1990 Sex/Race: F/B Height: 5 ft 4 in Weight: 138 lbs Defendant.	DA Case No.: 2019LB001 Assigned DA: Rhonda Pearlman Agency Case No.: F-WI-2019-01 Case No. 19-CF-01 CRIMINAL COMPLAINT CRIMINAL CHARGE Count 1: POSSESSION OF NARCOTIC DRUGS The above-named defendant on or about Friday, January 4, 2019, in the Village of Freedom, Liberty County, Wisconsin, did knowingly possess Heroin, a controlled substance included in Schedule I or Schedule II which is a narcotic drug, contrary to sec. 961.41(3g)(am), 939.50(3)(i), a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both. And, invoking the provisions of sec. 961.50(1) Wis. Stats., the Court may suspend the defendant's operating privileges for not less than six (6) months nor more than five (5) years. If the defendant's driving privileges are already suspended, any suspension imposed must be served consecutively. Count 2: POSSESSION OF DRUG PARAPHERNALIA

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

State of Wisconsin, Plaintiff,

-VS-

Plea Questionnaire/ Waiver of Rights

Defendant's Name _____

Case No. _____

I am the defendant and intend to plea as follows:

Charge/Statute	Plea	Charge/Statute	Plea
	<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest		<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest
	<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest		<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest

☐ See attached sheet for additional charges

I am _____ years old. I have completed _____ years of schooling.

I ☐ do ☐ do not have a high school diploma, GED, or HSED.

I ☐ do ☐ do not understand the English language.

I ☐ do ☐ do not understand the charge(s) to which I am pleading.

I ☐ am not ☐ am currently receiving treatment for a mental illness or disorder.

I ☐ have not ☐ have had any alcohol, medications, or drugs within the last 24 hours.

Constitutional Rights

I understand that by entering this plea, I give up the following constitutional rights:



Plea

- Guilty

- No Contest

- Not Guilty

- NGI(bonus)

STATE OF WISCONSIN	CIRCUIT COURT	LIBERTY COUNTY
STATE OF WISCONSIN, Plaintiff,	DA Case No.: 2019LB001 Assigned DA: Rhonda Pearlman Agency Case No.: F-WI-2019-01 Case No. 19-CF-01	
vs. RAMONA S. DENG 1963 Gideon Way Freedom, WI 55005 DOB 01/01/1990 Sex/Race: F/B Height: 5 ft 4 in Weight: 138 lbs	CRIMINAL COMPLAINT	
Defendant,		For SPD Use
CRIMINAL CHARGE		
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Count 2: POSSESSION OF DRUG PARAPHERNALIA		

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State of Wisconsin, Plaintiff, -vs- Defendant's Name _____	Plea Questionnaire/ Waiver of Rights Case No. _____																				
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Trial

- Jury or Court
- Testify or Silence
- Defenses and Witnesses
- Evidence

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Presidential Historian?



Assist with Defense



Prepare Defense



Prepare Defense



Trial



Trial



Recognizing Competency



Memory



Understanding



Reality



Behavior



NETFLIX

UNBREAKABLE
KIMMY SCHMIDT

Behavior



NETFLIX

UNBREAKABLE
KIMMY SCHMIDT

Facts



Perspective



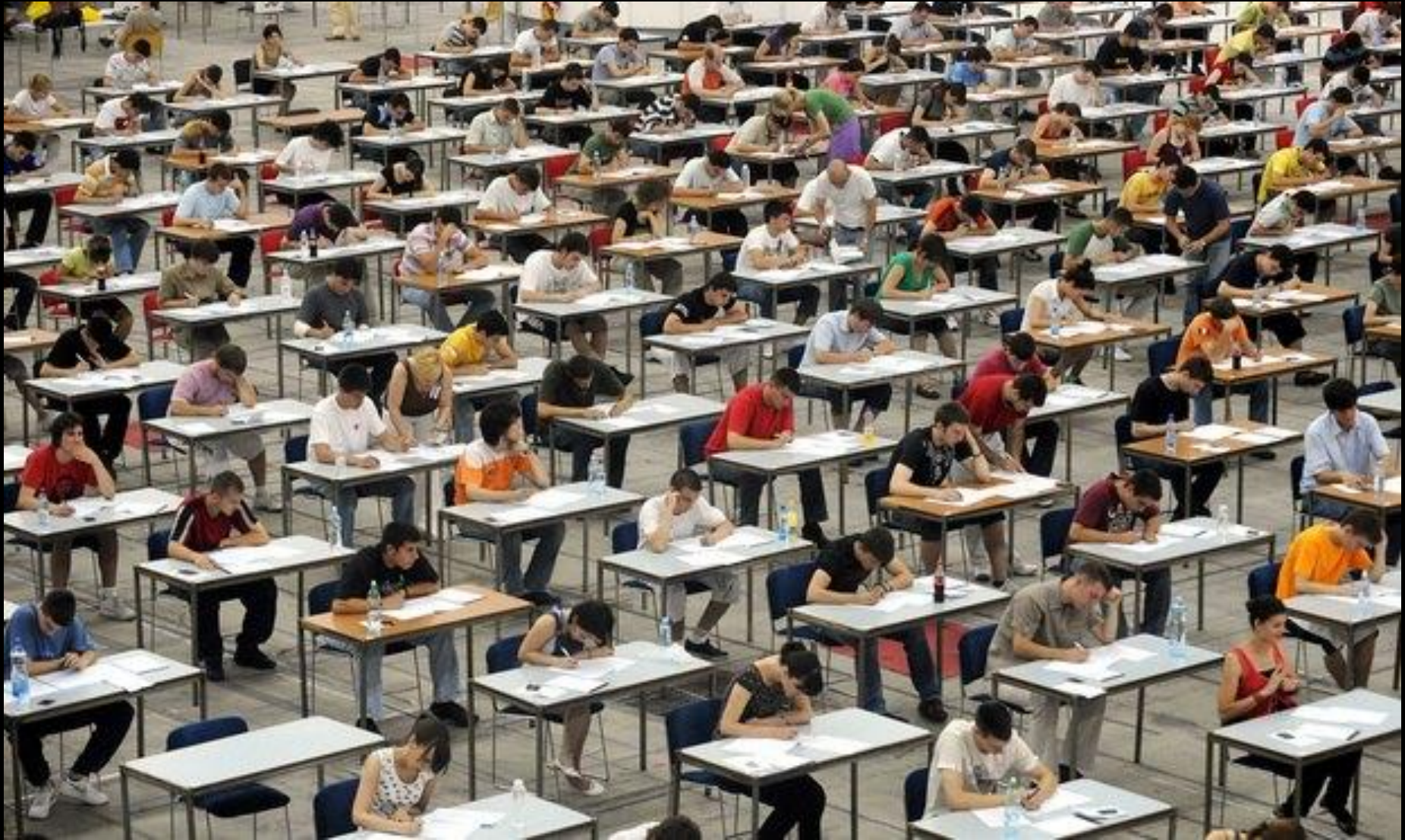
Collateral



Malingering



Client Relationship



Assessing Competency



Explain and Repeat



Own Words



Hypotheticals



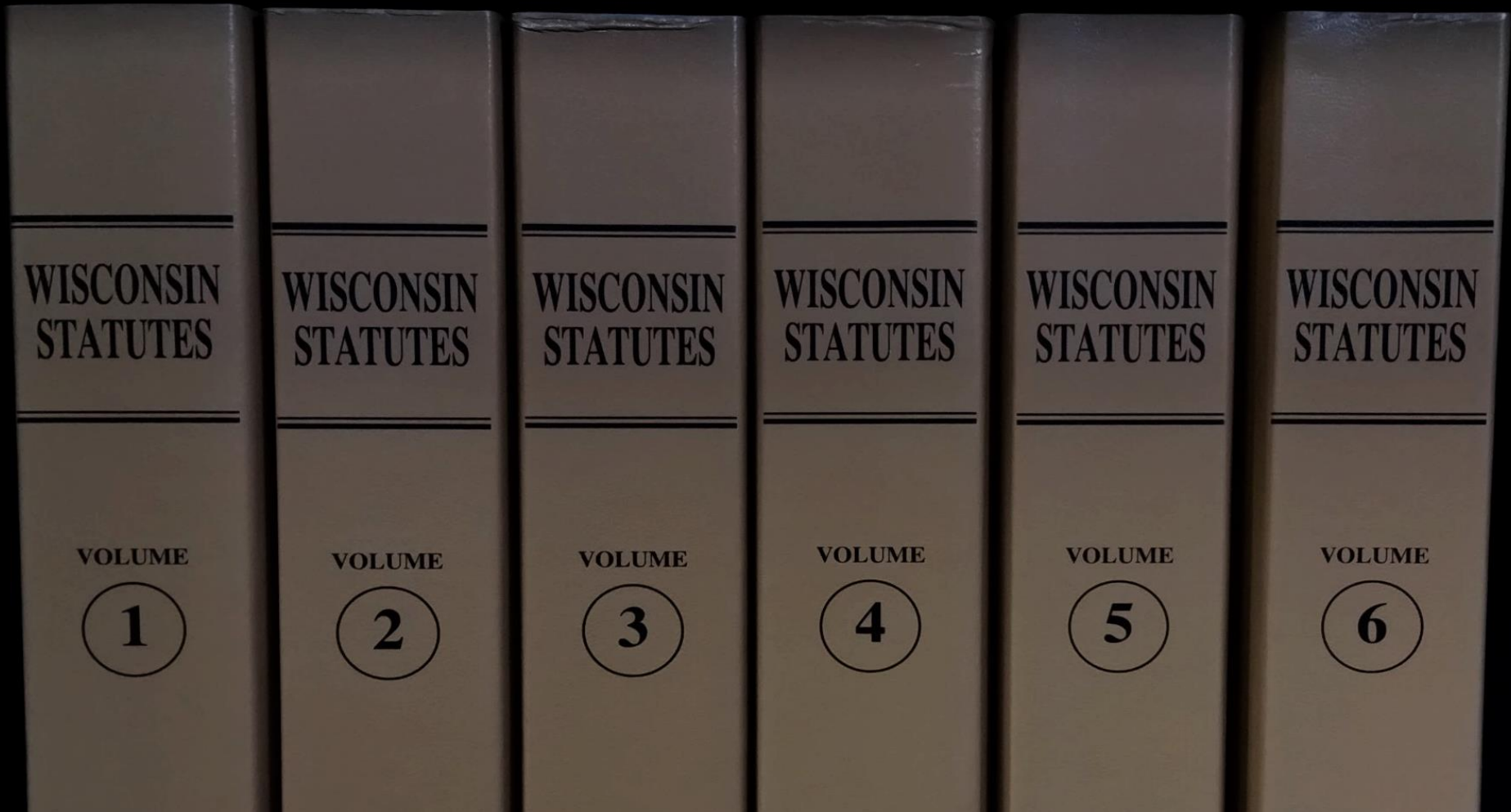
Personal History



Talk with Attorneys



Read Statute



Ethical Duty

- Duty to raise – *Johnson*
- Not strategic decision
- Client confidences - *Meeks*

Court Process



Evaluation

- Court appoints Doctor
- Doctor Evaluation
- Competency Report

Competency Determination

- Competent
- Not competent, likely to regain
- Not competent, not likely to regain

Questions?